

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA  
3

4 BRIT F. AUGBORNE,

Case No. 2:19-cv-01599-JAD-DJA

5 Petitioner,

6 v.

**Order Granting Motion to Clarify and  
Dismissing Case**

7 BRIAN WILLIAMS, *et al.*,

[ECF No. 4]

8 Respondents.  
9

10 Petitioner Brit F. Augborne, a *pro se* Nevada prisoner, commenced this habeas action by  
11 submitting a Petition for Writ of Habeas Corpus<sup>1</sup> under 28 U.S.C. § 2254, but he did not pay the  
12 \$5 filing fee or submit an IFP application for incarcerated litigants with the appropriate  
13 supporting documentation.<sup>2</sup> So I ordered him to do one of two things by October 30, 2019: (1)  
14 file an IFP application along with all required attachments or (2) pay the \$5 filing fee. In  
15 response, Augborne filed a Motion to Clarify.<sup>3</sup> He states that he first filed a habeas petition in  
16 Case No. 2:19-cv-01204-KJD-BNW, wherein the court has granted him leave to proceed *in*  
17 *forma pauperis* on his petition. He says that the “two cases are one in the same,” and asks me to  
18 dismiss this case.

19 Augborne is in custody under a state-court judgment of conviction in Seventh Judicial  
20 District Court Case No. C-14-2989461, and the claims that he raises in this case pertain to that  
21 conviction. A review of the docket in Case No. 2:19-cv-01204-KJD-BNW confirms that the  
22 petition in this case is duplicative and serves no legitimate purpose. Any claims that Augborne  
23 wishes to pursue regarding his conviction in C-14-2989461 must be asserted, if at all, in Case

24 <sup>1</sup> ECF No. 1-1.

25 <sup>2</sup> 28 U.S.C. § 1915(a); LSR 1-1, LSR 1-2.

26 <sup>3</sup> ECF No. 4.  
27  
28

1 No. 2:19-cv-01204-KJD-BNW.<sup>4</sup> So I dismiss the instant petition without prejudice as  
2 duplicative.

3 IT IS THEREFORE ORDERED that:

4 1. Petitioner Brit F. Augborne's Motion to Clarify (**ECF No. 4**) is **GRANTED**.

5 2. **This action is dismissed without prejudice as duplicative of Case No. 2:19-cv-**  
6 **01204-KJD-BNW.**

7 3. Augborne is **DENIED** a certificate of appealability because jurists of reason would  
8 not find my dismissal of this petition to be debatable or wrong.

9 4. The Clerk of Court is directed to **MAIL** Augborne one copy of the Petition for Writ of  
10 Habeas Corpus (ECF No. 1-1) submitted in this case.

11 5. The Clerk of Court is further directed to **ENTER FINAL JUDGMENT**  
12 **ACCORDINGLY AND CLOSE THIS CASE.**

13 Dated: October 18, 2019

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16 U.S. District Judge Jennifer A. Dorsey  
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25 <sup>4</sup> I make no representation that any claims Augborne might seek to add to his currently pending  
26 petition would be timely or that leave to amend would be granted in that case. I hold only that, to  
27 the extent Augborne wishes to pursue the claims in this petition, they may be pursued only in the  
28 petition he has already filed and that is currently pending.